

that the system contains any information properly classified under Executive Order 12958 and that is required by Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption is applicable to parts of all systems of records including those not otherwise specifically designated for exemptions herein which contain isolated items of properly classified information.

[60 FR 7909, Feb. 10, 1995, as amended at 61 FR 2916, Jan. 30, 1996]

PART 321—DEFENSE INVESTIGATIVE SERVICE, PRIVACY ACT OF 1974

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AUTHORITY: Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

SOURCE: 40 FR 55546, Nov. 28, 1975, unless otherwise noted. Redesignated at 56 FR 55631, Oct. 29, 1991.

§ 321.1 Purpose and applicability.

(a) This part establishes rules, policies and procedures for the disclosure of personal records in the custody of the Defense Investigative Service (DIS) to the individual subjects, the handling of requests for amendment or correction of such records, appeal and review of DIS decisions on these matters, and the application of general and specific exemptions, under the provisions of the Privacy Act of 1974. It also prescribes other policies and procedures to effect compliance with the Privacy Act of 1974 and DoD Directive 5400.11.

(b) The procedures set forth in this part do not apply to DIS personnel seeking access to records pertaining to themselves which previously have been

available. DIS personnel will continue to be granted ready access to their personnel, security, and other records by making arrangements directly with the maintaining office. DIS personnel should contact the Office of Information and Legal Affairs for access to investigatory records pertaining to themselves or any assistance in obtaining access to other records pertaining to themselves, and may follow the procedures outlined in these rules in any case.

[40 FR 55546, Nov. 28, 1975, as amended at 46 FR 35640, July 10, 1981. Redesignated at 56 FR 55631, Oct. 29, 1991]

§ 321.2 References.

(a) Pub. L. 93-579 (5 U.S.C. 552a) the Privacy Act of 1974.

(b) DoD Directive 5400.11, Personal Privacy and Rights of Individuals Regarding Their Personal Records, dated 4 August 1975.

(c) DIS Regulation 28-4, "Access to and Maintenance of DIS Personal Records".

(d) DoD Directive 5400.7, DoD Freedom of Information Program.

(e) Office of Management and Budget Guidelines for Implementation of the Privacy Act of 1974, dated 1 July 1975.

(f) DIS Manual for Personnel Security Investigations.

[40 FR 55546, Nov. 28, 1975, as amended at 46 FR 35640, July 10, 1981. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 57 FR 33124, July 27, 1992]

§ 321.3 Definitions.

(a) All terms used in this part which are defined in 5 U.S.C. 552a shall have the same meaning herein.

(b) As used in this part, the term *agency* means the Defense Investigative Service.

[46 FR 35640, July 10, 1981. Redesignated at 56 FR 55631, Oct. 29, 1991]

§ 321.4 Information and procedures for requesting notification.

(a) *General.* Any individual may request and receive notification of whether he is the subject of a record in any system of records maintained by DIS using the information and procedures described in this section.

(1) Paragraphs (b) and (c) of this section give information that will assist an individual in determining in what systems of DIS records (if any) he may be the subject. This information is presented as a convenience to the individual in that he may avoid consulting the lengthy systems notices elsewhere in the FEDERAL REGISTER.

(2) Paragraph (d) of this section details the procedure an individual should use to contact DIS and request notification. It will be helpful if the individual states what his connection with DIS has or may have been, and about what record system(s) he is inquiring. Such information is not required, but its absence may cause some delay.

(b) *DIS Records Systems.* A list of DIS records systems is available by contacting Defense Investigative Service, Office of Information and Public Affairs, 1900 Half Street, SW, Washington, DC 20324-1700.

(c) *Categories of individuals in DIS Record Systems.* (1) If an individual has ever been investigated by DIS, the investigative case file should be a record in system DIS 5-01. An index to such files should be in DIS 5-02.

(2) If an individual has ever made a formal request to DIS under the Freedom of Information Act or the Privacy Act of 1974, a record pertaining to that request under the name of the requester, or subject matter, will be in system DIS 1-01.

(3) If an individual is or has ever been a member of DIS, i.e., a civilian employee or appointee, or a military assignee, then he may be a subject of any of the 22 record systems depending on his activities, with the following exceptions:

(i) Civilian personnel will not be subjects of DIS 4-05.

(ii) Military personnel will not be subjects of systems DIS 4-06, 07, 08, or 09.

(4) Individuals who have been applicants for employment with DIS, or nominees for assignment to DIS, but who have not completed their DIS affiliation, may be subjects in systems DIS 4-02, 4-04, 5-01, 5-02, or 6-01.

(5) Any individual who is a subject, victim or cross-referenced personally in an investigation by an investigative

element of any DoD component, may be referenced in the Defense Central Index of Investigations, system DIS 5-02, in an index to the location, file number, and custodian of the case record.

(6) Individuals who have ever presented a complaint to or have been connected with a DIS Inspector General inquiry may be subjects of records in system DIS 2-01.

(7) If an individual has ever attended the Defense Industrial Security Institute, he should be subject of a record in DIS 7-01.

(8) If an individual has ever been a guest speaker or instructor at the Defense Industrial Security Institute, he should be the subject of a record in DIS 7-02.

(9) If an individual is an employee or major stockholder of a government contractor or other DoD-affiliated company or agency and has been issued, now possesses or has been processed for a security clearance, he may be subject to a record in DIS 8-01.

(d) *Procedures.* The following procedures should be followed to determine if an individual is a subject of records maintained by DIS, and to request notification and access.

(1) Individuals should submit inquiries in person or by mail to the Office of Information and Legal Affairs, 1900 Half St., SW, Washington, DC 20325. Inquiries by personal appearance should be made Monday through Friday from 8:30 to 11:30 a.m. and 1:00 to 4:00 p.m. The information requested in §321.5 must be provided if records are to be accurately identified. Telephonic requests for records will not be honored. In a case where the system of records is not specified in the request, only systems that would reasonably contain records of the individual will be checked, as described in §321.4(b).

(2) Only the Director, the Chief, Office of Information and Legal Affairs, or the Director for Investigations may authorize exemptions to notification of individuals in accordance with §321.14.

[40 FR 55546, Nov. 28, 1975, as amended at 46 FR 35640, July 10, 1981. Redesignated at 56 FR 55631, Oct. 29, 1991, as amended at 56 FR 57802, Nov. 14, 1991; 57 FR 33124, July 27, 1992]

§ 321.5 Requirements for identification.

(a) *General.* Only upon proper identification, made in accordance with the provisions of this section, will any individual be granted notification concerning and access to all releasable records pertaining to him which are maintained in a DIS system.

(b) *Identification.* Identification of individuals is required both for accurate record identification and to verify identity in order to avoid disclosing records to unauthorized persons. Individuals who request notification of, access to, or amendment of records pertaining to themselves, must provide their full name (and additional names such as aliases, maiden names, alternate spellings, etc., if a check of these variants is desired), date and place of birth, and social security account number (SSAN).

(1) Where reply by mail is requested, a mailing address is required, and a telephone number is recommended to expedite certain matters. For military requesters residing in the United States, home address or P.O. Box number is preferred in lieu of duty assignment address.

(2) Signatures must be notarized on requests received by mail. Exceptions may be made when the requester is well known to releasing officials. For requests made in person, a photo identification card, such as military ID, driver's license or building pass, must be presented.

(3) While it is not required as a condition of receiving notification, in many cases the SSAN may be necessary to obtain an accurate search of DCII (DIS 5-02) records.

(c) A DIS Form 30 (Request for Notification of/Access to Personal Records) will be provided to any individual inquiring about records pertaining to himself whose mailed request was not notarized. This form is also available at the Office of Information and Legal Affairs, Washington, DC for those who make their requests in person.

[40 FR 55546, Nov. 28, 1975, as amended at 46 FR 35641, July 10, 1981. Redesignated at 56 FR 55631, Oct. 29, 1991]

§ 321.6 Access by subject individuals.

(a) *General.* (1) Individuals may request access to records pertaining to themselves in person or by mail in accordance with this section. However, nothing in this section shall allow an individual access to any information compiled or maintained by DIS in reasonable anticipation of a civil or criminal action or proceeding, or otherwise exempted under the provisions of § 321.14.

(2) A request for a pending personnel security investigation will be held in abeyance until completion of the investigation and the requester will be so notified.

(b) *Manner of access.* (1) Requests by mail or in person for access to DIS records should be made to the Offices specified in the record systems notices published in the FEDERAL REGISTER by the Department of Defense or to the Office of Information and Legal Affairs, 1900 Half St. SW, Washington, DC 20324.

(2) Any individual who makes a request for access in person shall:

(i) Provide identification as specified in § 321.5.

(ii) Complete and sign a request form.

(3) Any individual making a request for access to records by mail shall include a signed and notarized statement to verify his identity, which may be the DIS request form if he has received one.

(4) Any individual requesting access to records in person may be accompanied by an identified person of his own choosing while reviewing the record. If the individual elects to be accompanied, he shall make this known in his written request, and include a statement authorizing disclosure of the record contents to the accompanying person. Without written authorization of the subject individual, records will not be disclosed to third parties accompanying the subject.

(5) Members of DIS field elements may be given access to records maintained by the field elements without referral to the Office of Information or the records system manager at headquarters. An account of such access will be kept for reporting purposes.

(6) In all requests for access, the requester must state whether he or she